UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and Information Administration
Washington, D.C. 20230

AUG - 5 2003

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: Notice of Proposed Rulemaking in the Matter of International Settlements Policy Reform and International Settlement Rates, IB Docket Nos. 02-324 and 96-261

Dear Ms. Dortch:

Enclosed please find an original and two (2) copies of a letter from Nancy J. Victory, Assistant Secretary for Communications and Information, U.S. Department of Commerce, to Federal Communications Commission Chairman Michael K. Powell in the above-referenced proceeding. A copy of the letter has been sent by facsimile to Chairman Powell, the Commissioners, and the Chief of the International Bureau.

Please direct any questions you may have regarding this letter to the undersigned. Thank you for your cooperation.

Respectfully submitted,

Kathy D. Smith
Chief Counsel

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications and Information
Washington, D.C. 20230

AUG - 5 2003

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *International Settlements Policy Reform*, IB Docket No. 02-324, *International Settlement Rates*, IB Docket No. 96-261, Notice of Proposed Rulemaking, FCC No. 02-285 (released Oct. 11, 2002)

Dear Chairman Powell:

The Commission currently has before it a proceeding to re-examine the international settlements policy (ISP) and associated benchmarks, and to inquire as to whether foreign mobile termination rates may be adversely affecting U.S. consumers and the market for U.S.-international services. Given recent trends towards increasing international fixed line termination rates above market prices, and intensifying international discussions on whether a cost-oriented scheme should be developed for international mobile rates, the Commission's proceeding comes at a critical juncture and its decisions will have a significant impact on the international telecommunications marketplace. I write to urge the Commission to retain the ISP and associated benchmarks in a modified form, and to adopt a position of cost-orientation for international mobile rates to ensure the continued support of U.S. consumer and business interests.

(1) The Commission Should Retain a Modified ISP and Associated Benchmarks.

As a principle, the National Telecommunications and Information Administration (NTIA)[1] supports the private, commercial negotiation of international settlement rates in competitive markets. Where there are market distortions, however, some government action may be necessary. Above-market termination rates disrupt the competitive marketplace by raising costs for consumers, which in turn diminishes demand for telecommunications services and harms the overall global economy. As a result, targeted government intervention, such as the ISP, is warranted in these circumstances.

[1] The National Telecommunications and Information Administration (NTIA) serves as the President's principal adviser on telecommunications and information policies as they pertain to the Nation's economic and technical advancement, has the authority to develop and set forth those policies, and has the responsibility to ensure that the views of the executive branch are effectively presented to the Commission. *See* 47 U.S.C. §§ 902(a)(E), 902(a)(I), 902(a)(J).

As the Commission observed in the pending Notice of Proposed Rulemaking, adherence to the ISP and associated benchmarks as well as increased competition in the U.S.-international marketplace and the growing liberalization and privatization in foreign markets has resulted in cost savings for U.S. consumers. NTIA commends the Commission for its role in the realization of these cost savings. NTIA also reiterates its commitment to existing International Telecommunication Union (ITU) Recommendations and Word Trade Organization (WTO) principles that support cost-oriented rates for interconnection to public telecommunications networks.

In the Notice, the Commission specifically asks whether its existing requirements remain necessary to protect U.S. consumers. NTIA believes that the ISP and associated benchmarks are still necessary on routes where free and fair competition is threatened, restricted or absent. On U.S.-international routes where free and fair competition is present and flourishing, NTIA suggests the Commission suspend the ISP and associated filing requirements for U.S. carriers.

NTIA is aware, however, of recent attempts by foreign governments to intervene in previously competitive markets and establish artificial price floors, and we favor retaining certain safeguards on routes where ISP requirements have been eliminated. One safeguard NTIA believes has merit is the automatic examination of a route when a foreign government mandates a price floor that increases rates above competitively negotiated levels, regardless of whether the increase is below current benchmarks.

In addition, recognizing that the original benchmark rates were determined using an analysis of existing tariffs and thus were not based on actual costs, and taking into account technological innovations that have resulted in lower transmission and switching costs, NTIA believes that the Commission should investigate the feasibility and practicality of downward revisions to the existing benchmarks.

(2) The Commission Should Adopt a Principle of Cost-Orientation for International Mobile Termination.

Global support for market liberalization and associated developments, such as the principle of cost-orientation, has helped to create an environment that supports lower prices for U.S. consumers with respect to fixed international calls. Indeed, one of the primary goals articulated by the Commission in 1996 when it adopted a *Policy Statement on International Accounting Rate Reform* was to promote effective competition through prices more closely related to cost.[2] The effectiveness of this approach can be seen in the substantial reduction in prices for international calls originating in the U.S., which have dropped on average from $0.67 in 1997 to $0.33 in 2001.[3] Over the same period, international minutes originating in the U.S. have

[2] *Policy Statement on International Accounting Rate Reform*, Policy Statement, 11 F.C.C. Rcd. 3146, FCC No. 96-37 (1996).

[3] *International Settlements Policy Reform and International Settlement Rates*, Notice of Proposed Rulemaking, 17 F.C.C. Rcd. 19954, FCC No. 02-285 at 2 (2002).

increased from 22.7 billion minutes to 33.3 billion minutes.[4] We believe similar consumer pricing trends will emerge in the mobile market if the principle of cost-orientation is extended to cover international mobile services. Therefore, NTIA strongly encourages the Commission to explicitly adopt a principle of cost-orientation for international mobile services, which will demonstrate U.S. commitment and leadership to achieving lower prices for consumers worldwide.

This principle, which takes into account the costs incurred in providing international services, supports the goal of offering consumers high quality international telephone services at the lowest possible prices.[5] By contrast, non-cost-oriented rates may result in above-market termination charges which diminish the demand for telecommunications services, hurting both consumers and the overall economy. This is true regardless of the technology used to deliver the services.

NTIA recognizes that, in some circumstances, there may be higher costs for terminating a call on a mobile network as opposed to a fixed network, as some parties in this proceeding contend. However, high mobile termination charges, often far above applicable fixed traffic rates, are currently being levied in some foreign markets.[6] NTIA is encouraged that national authorities in some countries have recognized this issue and are beginning to address potential anti-competitive practices in their home markets in a responsible and measured fashion. Therefore, at this time, NTIA does not support the development of additional regulation specifically for international mobile services, but simply the extension of the existing cost-orientation principle for fixed services to mobile services.

NTIA is troubled, however, by allegations in the record of this proceeding that U.S. consumers may be paying high surcharges for placing calls to foreign mobile numbers. In addition to reportedly paying high foreign mobile termination rates that are passed onto the consumer, some commenters contend that U.S. carriers are in addition levying unsubstantiated surcharges for connecting U.S. consumers to a non-U.S. mobile number. NTIA urges the Commission to thoroughly investigate these allegations and to take action as appropriate.

NTIA encourages the Commission and other interested parties to be vigilant in monitoring developments in international markets. In the future, if sufficient evidence can be presented that

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[4] *2001 International Telecommunications Data*, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission (released Jan. 2003).

[5] International Telecommunication Union (ITU), ITU-T Recommendation D.140, *Accounting Rate Principles for International Telephone Services* (June 2002). This recommendation states that accounting rates for international telephone services should be cost-orientated and should take into account relevant cost trends while recognizing that the remuneration for the use of telecommunication facilities should cover the costs incurred in providing those facilities, such as network costs, financial costs, and overheads.

[6] AT&T Comments, International Settlements Policy Reform and International Settlement Rates, IB Docket Nos., 02-324 and 96-261, at 31 (Feb. 25, 2003) . In support of its position, AT&T cites *INTUG, Termination of International Calls to Mobile Networks*, Submission by INTUG to ITU-T SG3, (June 2002), at 3-7 (citing Arbinet April 2002 data showing mobile international termination rates exceeding fixed network termination rates on fixed networks in Netherlands by 1428.8 percent, Sweden by 1344.4 percent, Australia by 794.1 percent, Japan by 470.2 percent and Chile by 424.0 percent).

foreign regulators are not adequately addressing the issue of excessive international mobile termination rates in their markets, NTIA would support a further examination of the issue by the Commission.

Sincerely,

Nancy J. Victory

Nancy J. Victory

cc: The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin
The Honorable Jonathan S. Adelstein
Donald Abelson, Chief, International Bureau